

ALBERTA INSURANCE COUNCIL
(the "AIC")

In the Matter of the *Insurance Act*, R.S.A. 2000 Chapter I-3
(the "Act")

And

In the Matter of Granite Claims Solutions GP ULC / Granite Claims Solutions Global Adjusters & Marine
Surveyors
(the "Firm")

DECISION
OF
The Insurance Adjusters' Council
(the "Council")

This case involved an allegation pursuant to 460(3) of the Act. Specifically, it is alleged that the Firm entered into a contract or employed an unlicensed person to act in the capacity of an insurance adjuster (the "Adjuster") when the individual did not hold a certificate of authority authorizing him to act in that capacity. In so doing, it is alleged that it contravened s. 460(3) of the Act.

Facts and Evidence

This matter proceeded by way of a written Report to Council dated October 15, 2014 (the "Report"). Subsequent to the period of time in which the alleged offence took place, the Firm was acquired by another adjusting firm (the "Successor Firm"). The Report was forwarded to the DR of the Successor Firm to provide an opportunity to adduce further evidence or submissions in response to the Report. The Successor Firm did not provide the Council with any further evidence or submissions.

The Firm was the holder of a valid Certificate of Authority to transact business as an insurance adjusting firm and held a certificate since at least 2010.

1. On March 7, 2014, the AIC received a fax from the Adjuster which confirmed that he had been acting as an insurance adjuster during the period when he did not hold a valid and subsisting Certificate of Authority to do so.

2. On April 1, 2014, the AIC sent a letter to the Adjuster that requested he provide details as to the number of insurance claims he had handled during the period when he did not hold a certificate of authority to act as an Adjuster.
3. The Adjuster responded by email on April 28, 2014. In this an email the Adjuster confirmed he handled 16 Alberta insurance claims from October 24, 2013 to and including March 6, 2014 and that he received an annual salary for in relation to this work.
4. On May 20, 2014 the AIC sent a letter to the DR that requested confirmation of the number of claims the Adjuster handled while not holding a certificate. The DR responded by fax date June 3, 2014 and confirmed that the Adjuster was compensated for handling 16 Alberta claims.

Discussion

Section 460 of the Act requires adjusters to hold a valid and subsisting certificate of authority to undertake adjusting activity and it also prohibits adjusting firms from entering into contracts or engaging unlicensed adjusters. In this case it is clear that the Adjuster acted without a valid certificate of authority and that the Firm engaged him to act in this capacity. This is frankly admitted by both the Firm and the Adjuster involved. Therefore, we find that the Firm contravened a section of the Act as alleged.

Pursuant ss. 480(1)(b) of the Act and 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, A.R. 125/2001 (the "Penalties Regulation") the Council has the jurisdiction to levy civil penalties in amounts not exceeding \$1,000.00 for contraventions of this nature. In light of all of the evidence, we are of the view that a civil penalty in the amount of \$300.00 is appropriate. The civil penalty must be paid within thirty (30) days of receiving this notice. In the event that the civil penalty is not paid within thirty (30) days interest will begin to accrue at the interest rate of 12% per annum as prescribed by s. 13(2) of the Penalties Regulation. Pursuant to s. 482 of the Act (copy enclosed), the Firm has thirty (30) days in which to appeal this decision by filing a notice of appeal with the Office of the Superintendent of Insurance. This Decision was made by way of a motion made and carried at a properly conducted meeting of the Insurance Adjusters' Council. The motion was duly recorded in the minutes of that meeting.

Date: February 19, 2015

Bob Pearson, Member
Insurance Adjusters' Council

Extract from the *Insurance Act*, Chapter I-3**Appeal**

482 A decision of the Minister under this Part to refuse to issue, renew or reinstate a certificate of authority, to impose terms and conditions on a certificate of authority, to revoke or suspend a certificate of authority or to impose a penalty on the holder or former holder of a certificate of authority may be appealed in accordance with the regulations.

Extract from the *Insurance Councils Regulation*, Alberta Regulation 126/2001**Notice of appeal**

16(1) A person who is adversely affected by a decision of a council may appeal the decision by submitting a notice of appeal to the Superintendent within 30 days after the council has mailed the written notice of the decision to the person.

(2) The notice of appeal must contain the following:

- a) a copy of the written notice of the decision being appealed;
- b) a description of the relief requested by the appellant;
- c) the signature of the appellant or the appellant's lawyer;
- d) an address for service in Alberta for the appellant;
- e) an appeal fee of \$200 payable to the Provincial Treasurer.

(3) The Superintendent must notify the Minister and provide a copy of the notice of appeal to the council whose decision is being appealed when a notice of appeal has been submitted.

(4) If the appeal involves a suspension or revocation of a certificate of authority or a levy of a penalty, the council's decision is suspended until after the disposition of the appeal by a panel of the Appeal Board.

Address for Superintendent of Insurance:

Superintendent of Insurance
Alberta Finance
402 Terrace Building
9515-107 Street
Edmonton, Alberta T5K 2C3